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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/749,683 | 12/28/2000 | Hyong-Taek Lim | 0630-1193P | 6561 |
| 7590 | 03/11/2005 | | EXAMINER | |
| BIRCH, STEWART KOLASCH & BIRCH, LLP P.O. Box 747 Falls Church, VA 22040-0747 | | | LAZARO, DAVID R | |
| | | ART UNIT | PAPER NUMBER | |
| | | 2155 | | |

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|---|------------------------|---------------------|
| Advisory Action Before the Filing of an Appeal Brief | Application No. | Applicant(s) |
| | 09/749,683 | LIM ET AL. |

| | | |
|-----------------|-----------------|--|
| Examiner | Art Unit | |
| David Lazaro | 2155 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- The period for reply expires 3 months from the mailing date of the final rejection.
- The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

- They raise new issues that would require further consideration and/or search (see NOTE below);
- They raise the issue of new matter (see NOTE below);
- They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. Applicant's reply has overcome the following rejection(s): _____.

6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 6-12.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. Other: See Continuation Sheet.

Hosain Alam
HOSAIN ALAM
SUPERVISORY PATENT EXAMINER

David Lazaro
David Lazaro
March 9, 2005

Continuation of 3. NOTE: The limitation regarding "attaching an additional memory to the remote controller to store appliance operating parameter data"(as from claim 1) would require further consideration and/or search..

Continuation of 13. Other: The request for reconsideration and withdrawal of the finality of the rejection has been considered but is not persuasive. In regards to the original restriction requirement that is part of the Non-Final Action mail 05/13/04, the examiner notes that applicants response to this action was technically non-responsive since the amendment canceled all the claims drawn to the elected group. MPEP 821.03 states "An amendment canceling all claims drawn to the elected invention and presenting only claims drawn to the nonelected invention should not be entered. Such an amendment is nonresponsive." However, as discussed in the Final Office Action (mailed 10/26/04), the claims as presented by the same amendment were not subject to restriction. As the amendment shows the direction the applicants are seeking in terms of the scope of the invention, the examiner withdrew the restriction such that claim 6 and 7 were rejoined. The examiner did this as it simplifies the issues (See MPEP 819.01) and in the interest of expediting prosecution of the application. The important issue to note thought is the original claims presented were claims 1-7 as filed. In the amendment claims 1-5 were canceled. Claims 6 and 7 were amended. And claims 8-12 were newly added. Because Claims 6 and 7 were amended such that the scope of claims 6 and 7 was no longer as originally presented, and Claims 8-12 were newly added, the final was necessitated by applicants amendment. As such, finality will NOT be withdrawn.